



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 21, 1992

Ms. Georgia Flint
Commissioner
Texas Department of Insurance
P. O. Box 149104
Austin, Texas 78714-9104

OR92-257

Dear Ms. Flint:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13638.

The Texas Department of Insurance (the department) has received a request for a "complete copy of Contractors of America Purchasing Group's file in its entirety." You have released much of the requested information; however, you claim that the two documents submitted to us for review are excepted from required public disclosure under sections 3(a)(3) and 3(a)(11) of the Open Records Act.

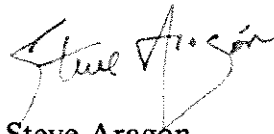
We have considered the exceptions you claim and have reviewed the documents submitted to us. Previous open records decisions issued by this office resolve your request. Open Records Decision No. 551 (1990) held that section 3(a)(3) applies only when litigation in a specific matter is pending or reasonably anticipated and only to information clearly relevant to the pending litigation. Although you indicated that an administrative investigation was then pending, you failed to sufficiently demonstrate that litigation in the matter was reasonably anticipated. Accordingly, the information may not be withheld under section 3(a)(3).

Section 3(a)(11) excepts memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policy-making or deliberative process. Open Records Decision No. 462 (1987) at 14. Facts and written observations of fact which are severable from material excepted under section 3(a)(11) must be disclosed. Open Records Decision No. 582

(1990) at 4. The memorandum dated July 3, 1990, contains no advice, opinion, or recommendation and must be disclosed in its entirety. For your convenience, we have marked the portion of the document dated September 24, 1990, which consists of advice, opinion, or recommendation and which may be withheld from required public disclosure under section 3(a)(11).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-257.

Yours very truly,

A handwritten signature in dark ink, appearing to read "Steve Aragon", written in a cursive style.

Steve Aragon
Assistant Attorney General
Opinion Committee

SA/GK/lmm

Ref.: ID# 13473
ID# 13638

cc: Mr. Douglas A. Tenore
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